

**IN THE UNITED STATES FEDERAL DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

PATSY W. CALLAHAN

PLAINTIFF

VS.

CIVIL ACTION NO. 1:07CV165

STATE FARM INSURANCE COMPANY

DEFENDANT

ORDER

This cause comes before the court on defendant State Farm’s motion to dismiss on the basis of improper service of process, incorrectly styled as a motion for “summary judgment.” In this motion, State Farm concedes that, prior to the removal of this case to federal court, Chickasaw County Circuit Judge Henry Lackey entered a May 17, 2007 order granting plaintiff an additional sixty days in which to serve process upon defendant. State Farm was, in fact, served with process within a month of Judge Lackey’s order, and it removed the case to federal court shortly thereafter. In the instant motion, State Farm seeks to have this court “reconsider” Judge Lackey’s order granting additional time for plaintiff to serve process, contending that there was no “good cause” for him to have granted such additional time.

State Farm’s motion raises troubling issues of comity and federalism, and the court is disinclined to “reconsider” an order which it did not make. Even if the court were not so disinclined, it would conclude that the plaintiff’s representations before Judge Lackey that ongoing efforts were being made to settle the case and that additional time was needed to serve process supported his decision to grant the requested extension. The court’s conclusion in this regard is strengthened by

the fact that the plaintiff sought and was granted only a rather minor extension of time to serve process, and service was eventually made within five months of the filing of the complaint. Under these circumstances, the court concludes that State Farm's motion seeking for it to "reconsider" Judge Lackey's decision to grant additional time is not well taken and should be denied.

It is therefore ordered that defendant's motion [16-1] to dismiss and/or to reconsider is denied.

SO ORDERED, this the 14th day of May, 2008.

/s/ MICHAEL P. MILLS
CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI